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10/820,832	04/07/2004	Sean Christopher Endler	86604/7114	8497
37123 7590 12/07/2009 FITCH EVEN TABIN & FLANNERY 120 SOUTH LASALLE STREET SUITE 1600 CHICAGO, IL 60603-3406				
EXAMINER				
TARAE, CATHERINE MICHELLE				
ART UNIT		PAPER NUMBER		
3688				
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12/07/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/820,832

**Applicant(s)**

ENDLER ET AL.

**Examiner**

C. Michelle Tarae

**Art Unit**

3688

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on June 13, 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The following is a Final Office Action in response to the communication received on June 13, 2009. Claims 1, 16-18, 23 and 29 have been amended. Claim 6 has been canceled. Claim 30 has been added. Claims 1-5 and 7-30 are now pending in this application.

### ***Response to Amendment***

2. The amendments to claims 1, 16-18, 23 and 29 and addition of claim 30 are acknowledged.

### ***Response to Arguments***

3. Applicant's arguments on pages 9-11 of the Remarks with respect to claims 1-16 and 23-28 being rejected by Jokinen have been fully considered, but are not persuasive.

In the Remarks, Applicant argues that Jokinen does not teach the newly added limitation to claims 1, 16 and 23 of "using information contained in the signal..."

In response to this argument, Examiner respectfully disagrees. First, Jokinen teaches that the mobile devices may communicate with the mobile network via bi-directional links (col. 5, lines 10-14), which means that the mobile devices may both send and receive signals. Second, the system of Jokinen discusses several ways in which the mobile devices are tracked through the mobile network including using GPS, a cell identification system, and/or a system that can identify coordinates of the mobile

device using location information of a short range network node (col. 5, lines 22-32). In all of these instances, a signal providing some identification information of the mobile device must be sent from the mobile device. That the locations may be stored in databases is irrelevant as the location of the mobile devices is received via signals from the mobile devices. This, in turn, allows advertisers to send advertisements to users to their mobile devices in real-time when they are in the vicinity of particular locations (col. 14, lines 27-34).

Accordingly, Examiner respectfully submits that Jokinen does teach "receiving a signal from the detected device and detecting a device profile corresponding to the device using the information contained in the signal."

Applicant's arguments on pages 11-12 of the Remarks with respect to claims 17-22 and 29 being rejected by Nemirofsky and Huemoeller are moot in view of the new grounds of rejections provided below, which have been necessitated by the amendments.

Examiner further notes that she is a new examiner to the instant application. An updated search uncovered new art for claims 17-22 and 29-30. Therefore, a new reference is being applied to claims 17-22 and 29-30.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-5, 7-16 and 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Jokinen et al. U.S. Pat. No. 7,343,317 (hereinafter Jokinen).

As per claim 1, Jokinen discloses a method comprising:

detecting a device capable of receiving and transmitting an electronic message  
(Summary of Invention; abstract; col. 14, lines 6-25; col. 5, lines 10-14 and 18-30);

searching for a plurality of promotions stored in a storage module (col. 6, lines 50-54);

receiving a signal from the detected device (col. 5, lines 22-32; There are several ways in which the mobile devices are tracked through the mobile network including using GPS, a cell identification system, and/or a system that can identify coordinates of the mobile device using location information of a short range network node. In all of these instances, a signal providing some identification information (in addition to location) of the mobile device must be sent from the mobile device.) and detecting a device profile corresponding to the device using information contained in the signal

(item 96 in Figure 3A; col. 5, lines 41-61; The signal from the mobile device is then used to determine the profile of the mobile device.);

selecting a particular promotion from the plurality of promotions based on the preference for the product or the service (col. 5, lines 53-61; col. 5, lines 41-55; col. 6, lines 3-6; col. 6, lines 51-55) and the geographical boundary associated with the device profile (col. 5, lines 33-38);

As per claim 2, Jokinen further discloses the method according to claim 1 further comprising detecting the location of the device using the global positioning system (col. 5, lines 22-38; abstract).

As per claim 3, Jokinen further discloses the method according to claim 2 wherein the geographical boundary is relative to the current location of the device (col. 5, lines 22-38).

As per claim 4, Jokinen further discloses the method according to claim 1 wherein in the step of selecting a particular promotion, the particular promotion is selected based on the valid hours of availability (col. 7, lines 40-48, col. 8, lines 16-25).

As per claim 5, Jokinen further discloses the method according to claim 1 wherein in the step of searching for a plurality of promotions, each of the plurality of promotions includes an electronic coupon (col. 6, lines 3-6).

As per claim 7, Jokinen further discloses the method according to claim 1 further comprising detecting a promotion profile for each of the plurality of promotions (col. 8, lines 16-20).

As per claim 8, Jokinen further discloses the method according to claim 7 wherein the promotion profile for each of the plurality of promotions includes location information (col. 5, lines 33-38, col. 7, lines 40-48).

As per claim 9, Jokinen further discloses the method according to claim 7 wherein the promotion profile for each of the plurality of promotions includes a description of offerings (col. 6, line 19).

As per claim 10, Jokinen further discloses the method according to claim 7 wherein the promotion profile includes days and time of validity for each of the plurality of promotions (col. 8, lines 16-31, col. 11, lines 1-26).

As per claim 11, Jokinen further discloses the method according to claim 7 wherein selecting the particular promotion is based on the promotion profile for each of the plurality of promotions (col. 8, lines 47-51).

As per claim 12, Jokinen further discloses the method according to claim 1 further comprising displaying the particular promotion on the device (abstract).

As per claim 13, Jokinen further discloses the method according to claim 1 wherein the particular promotion displayed on the device includes a location field (col. 13, lines 30-32, col. 13, lines 42-54) a type of product or service field, (col. 13, lines 27-28) an hours of availability field (Fig. 5, place order before 8 P.M., expiration time, col. 12, lines 46-52, col. 7, lines 40-49) and contact information field (col. 13, lines 25-28, Fig. 10, B-Burger, the name of the store on the electronic coupon is read as contact information).

As per claim 14, Jokinen further discloses the method according to claim 1 wherein the device is associated with a particular user (col. 9, lines 45-49) and has attributes that include a device attribute, (col. 4, lines 48-60, col. 7, lines 4-30) a user identity attribute, (col. 5, lines 53-61) a geographic boundary attribute (col. 5, lines 33-38) and a product or service attribute (col. 5, lines 53-61).

As per claim Claim 15, Jokinen further discloses the method according to claim 1 wherein the device is associated with multiple users (col. 9, lines 20-41) and has attributes that include a device attribute, (col. 4, lines 48-60, col. 7, lines 4-30) a plurality of user identity attributes, (col. 5, lines 53-61) a geographic boundary attribute (col. 5, lines 33-38) and a product or service attribute (col. 5, lines 53-61).

As per claim 16, Jokinen discloses the computer-readable medium for implementing the method of claim 1 (see discussion of claim 1).

As per claim 23, Jokinen discloses a system, comprising:

detecting a device associated with a user; (col. 14, lines 6-25; col. 5, lines 18-30)

storing a device record containing user information associated with the user and a promotion record containing promotion information associated with a promotion; and (col. 5, lines 39-43; col. 6, lines 18-20)

receiving a signal from the device containing information (col. 5, lines 22-32;

There are several ways in which the mobile devices are tracked through the mobile network including using GPS, a cell identification system, and/or a system that can identify coordinates of the mobile device using location information of a short range network node. In all of these instances, a signal providing some identification



information (in addition to location) of the mobile device must be sent from the mobile device.) and retrieving the user profile information using the information (item 96 in Figure 3A; col. 5, lines 41-61; The signal from the mobile device is then used to determine the profile of the mobile device.);

selecting a particular promotion based on the user information that includes a preference for a product or a service (col. 5, lines 53-61, col. 5, lines 41-55, col. 6, lines 3-6, col. 6, lines 51-55) and a geographical boundary associated with the device, (col. 5, lines 33-38) and the promotion information (col. 8, lines 48-51, claim 11).

As per claim 24, Jokinen further discloses the computer-readable medium according to claim 23 wherein the geographical boundary is relative to the current location of the device (col. 5, lines 22-38).

As per claim 25, Jokinen further discloses the system according to claim 23 wherein the current location of the device is determined using a global positioning system (col. 5, lines 22-38; abstract).

As per claim 26, Jokinen further discloses the system according to claim 23 wherein the particular promotion selected by the promotion selection module includes an electronic coupon (abstract; col. 6, lines 3-6).

As per claim 27, Jokinen further discloses the system according to claim 23 wherein the promotion information includes a time and data validity (col. 8, lines 16-31; col. 11, lines 1-26).

As per claim 28, Jokinen further discloses the system according to claim 23 wherein the promotion information includes location information (col. 5, lines 33-38; col. 7, lines 40-48).

6. Claims 17-22 and 29-30 are rejected under 35 U.S.C. 102(a,e) as being anticipated by Baranowski et al. U.S. Pub. No.2003/0195833.

As per claim 17, Baranowski discloses a method comprising:

detecting a plurality of devices capable of receiving and transmitting an electronic message (paragraph 12; Figure 1);

detecting a jointly scheduled meeting stored on at least one of the plurality of devices, wherein the scheduled meeting is among participants including at least one participant associated with the at least one of the plurality of devices (paragraphs 10, 84, 87; An attendee may manage jointly scheduled meetings via the portable device, where the scheduled meetings are among participants of a tradeshow.);

receiving a location parameter from the at least one of the plurality of devices for the scheduled meeting (paragraph 52; Time and location for the scheduled meeting/event may be managed by the attendee via the portable device.);

searching for a plurality of promotions stored in a storage module (paragraph 62; The controller searches and selects the advertisements to be displayed.); and

selecting a particular promotion from the plurality of promotions based on the location parameter (paragraph 12; Advertisements may be displayed to attendees according to their schedules and locations.).

As per claim 18, Baranowski further discloses the method according to claim 17 wherein selecting the particular promotion is further based on a time of the meeting (paragraph 12; Advertisements may be displayed to attendees according to their schedules and locations.).

As per claim 19, Baranowski further discloses the method according to claim 17 wherein selecting the particular promotion further comprises matching the location parameter with the particular promotion such that the particular promotion is utilized at the location (paragraphs 29, 62; An advertisement may be displayed to an attendee that allows the attendee to purchase a product, thereby utilizing the advertisement.).

As per claim 20, Baranowski discloses the method according to claim 17 wherein selecting the particular promotion further comprises matching the location parameter with the particular promotion such that the particular promotion is utilized at a competing location (paragraphs 29, 62; An advertisement may be displayed to an attendee that allows the attendee to purchase a product, thereby utilizing the advertisement. The advertisement may be viewed at a specified location within the tradeshow, where the different locations within the tradeshow can have a broadest reasonable interpretation of competing exhibitors.).

As per claim 21, Baranowski discloses the method according to claim 17 wherein selecting the particular promotion further comprises matching the location with the

particular promotion such that the particular promotion is utilized at a location unrelated to a location associated with the scheduled meeting (paragraphs 29, 62; An advertisement may be displayed to an attendee that allows the attendee to purchase a product, thereby utilizing the advertisement. The advertisement may be viewed at any specified location within the tradeshow, where the different locations within the tradeshow may be considered unrelated as they represent different exhibitors/vendors.).

With respect to claims 19-21, Examiner submits that the label associated with the location (e.g., the location being a competing location or an unrelated location) is not given much patentable weight as the label of the location does not impact the manipulative steps of the method. In other words, that the location is a competing or unrelated one does not affect how the promotion is utilized.

As per claim 22, Baranowski further discloses the method according to claim 17 further comprising detecting a current location for each of the plurality of devices (paragraphs 27, 35, 53-54; The attendee may view his current location on a map as well as the location of other attendees.).

As per claim 29, Baranowski discloses the computer-readable medium for implementing the method of claim 17 (see discussion of claim 17).

As per claim 30, Baranowski discloses the method according to claim 17, wherein the scheduled meeting is scheduled using the portable device's calendar function (paragraphs 49, 85-87; Attendees may modify their schedules via the portable device.).

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Peskin et al. U.S. Pub. No. 2003/0046304 discusses an event-based appointment scheduling system;
- Currans U.S. Pat. No. 6,727,930 discusses displaying ads on PDAs;
- Richton U.S. Pat. No. 6,650,902 discusses location-based advertising delivered to mobile units.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Weinhardt can be reached on 571-272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. Michelle Tarae/  
Primary Examiner, Art Unit 3688

December 2, 2009